

District  
Director

Southeast Key District  
(Employee Plans/Exempt Organizations)

31 Hopkins Plaza, Baltimore, MD 21201

Person To Contact:

Contact Telephone Number:

In Reply Refer to:

Date: OCT 15 1998  
29,

CERTIFIED MAIL

Dear Sir:

We have considered your Application for Recognition of Exemption from Federal Income Tax under section 501(c)(8) of the Internal Revenue Code and have determined that you do not qualify for tax exemption under that section. Our reasons for this conclusion and the facts on which it is based are explained below.

The information submitted indicates that you were incorporated in [REDACTED]. Your charter states that your corporation is being formed and shall exist for fraternal, beneficial and educational purposes, the maintenance of a club for social enjoyment and a meeting place, for the payment of dues from its members and for sick and funeral benefits. The corporation does not contemplate pecuniary gain or profit, incidental or otherwise, to its Members.

Income to your organization is from alcohol sales, small games of chance, vending and amusement machines and membership dues, while expenses are incurred for cost of goods sold, maintenance, occupancy, contributions and miscellaneous expenses.

Your application indicates that your organization has three types of membership: life, regular, and social. In order to be a life or regular member, you must be a citizen of the United States and be [REDACTED], [REDACTED]ty, or [REDACTED]ty. Life and regular members may hold office, attend conventions, vote, share in the dissolution of assets, and receive life insurance benefits. There are no requirements to become a social member. Social members have no voting rights, do not share in the dissolution of assets and will not receive any benefits. Currently the organization has [REDACTED] life members, [REDACTED] regular members and [REDACTED] social members.

Code	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
Surname	[REDACTED]	[REDACTED]	[REDACTED]				
Date	[REDACTED]	[REDACTED]	[REDACTED]				

Section 501(c)(8) of the Code provides for the exemption of fraternal beneficiary societies, orders, or associations operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system, and providing for the payment of life, sick, accident, or other benefits to the members of such society, order, or association or their dependents.

Section 1.501(c)(8)-1(a) of the Federal Income Tax Regulations provides that a fraternal beneficiary society is exempt from tax only if operated under the "lodge system" or for the exclusive benefit of the members so operating. "Operating under the lodge system" means carrying on its activities under a form of organization that comprises local branches, chartered by a parent organization and largely self-governing, called lodges, chapters, or the like. In order to be exempt it is also necessary that the society have an established system for the payment to its members or their dependents of life, sick, accident, or other benefits.

In Polish Army Veterans Post 147 v. Commissioner, 24 T.C. 891 (1955), the Tax Court held that an organization cannot be classed as fraternal where the only common bond between the majority of its members was their membership in that organization. Only 10 percent of the members had common ties in that they were Polish war veterans who had served in the armed forces of the Western Allies. All other dues paying members were admitted indiscriminately as long as they were elected to membership by a majority vote of members present at any meeting. Also approximately 90 percent of the members were not entitled to benefits. The court further stated that the organization was not exempt under section 101(3) of the 1939 Code (corresponding to section 501(c)(8) of the 1954 Code) and explained that the organization could not be considered a "beneficiary" society where most of its members were not entitled to benefits.

Based on the information submitted, we have determined that your organization is operating in essentially the same manner as the organization described in Polish Army Veterans Post 147 v. Commissioner. Social members make up [redacted] percent of your dues paying membership and have no voting privileges, ability to hold office, or eligibility for benefits of any kind. Therefore, we hold that your organization can not be held as a "beneficiary" society, because the majority of your members are not entitled to benefits. Furthermore, only [redacted] % of your membership have common ties in that they were Italian born or of Italian Ancestry. Your organization cannot be classified as fraternal when the only common bond between the majority of its members is their membership in your organization.

Therefore, we conclude that you do not qualify for exemption from Federal income tax as an organization described in section 501(c)(8) of the Internal Revenue Code. In accordance with this determination, you are required to file Federal income tax returns on Form 1120.

If you do not agree with our determination, you may request consideration of this matter by the Office of Regional Director of Appeals. To do this, you should file a written appeal as explained in the enclosed Publication 892. Your appeal should give the facts, law, and any other information to support your position. If you want a hearing, please request it when you file your appeal and you will be contacted to arrange a date. The hearing may be held at the regional office, or, if you request, at any mutually convenient district office. If you will be represented by



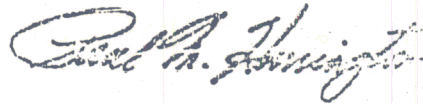
someone who is not one of your principal officers, that person will need to file a power of attorney or tax information authorization with us.

If you do not appeal this determination within 30 days from the date of this letter, as explained in Publication 892, this letter will become our final determination on this matter.

Appeals submitted which do not contain all the documentation required by Publication 892 will be returned for completion.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "Paul M. Harrington". The signature is fluid and cursive, with the first name "Paul" being more prominent.

Paul M. Harrington  
District Director

Enclosure: Publication 892